

REMARKS

This reply is intended to be completely response to the Non-Final Office Action dated January 21, 2009.

Status

Claims 1 - 19 are pending in this application.

Claims 1 - 19 are rejected.

Applicants believe that each of the rejections raised by the Examiner have been addressed and the application is in condition for allowance. Reconsideration and allowance of the application is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

I. Rejection of claims 1-4, 6-8, 10-16, 18, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Backer et al. in view of Raisio

On pages 2 and 3 of the Office Action, the Examiner rejected claims 1-4, 6-8, 10-16, 18 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Backer et al., U.S. Patent 5,249,643, in view of Raisio, U.S. Patent 5,102,284. For the reasons set forth below, Applicants respectfully assert that claims 1-4, 6-8, 10-16, 18 and 19 are patentable over Backer et al. in view of Raisio.

A. Independent Claims 1 and 10

1. Independent claims 1 and 10 are patentable over Backer et al. in view of Raisio because neither Backer et al. nor Raisio disclose, teach, or suggest a vehicle having a third telescopic section.

Independent claim 1 recites “a riser having a first telescopic actuator,” “a boom having a second telescopic actuator,” and “a jib having a third telescopic actuator.” Independent claim 10 recites “a telescopic riser,” “a telescopic boom,” and a “telescopic jib.” Applicants respectfully

assert that neither Backer et al. nor Raisio disclose, teach, or suggest a vehicle including a third telescoping section. In contrast, Backer et al. discloses an “aerial work platform” that includes two telescoping sections (i.e., a “lower telescopic boom assembly 5” and an “upper telescopic boom assembly 7”) with a “work platform 8” mounted at the end of upper telescopic boom assembly 7. See col. 2, lines 15-26 and FIG. 1. Thus, Backer et al. does not teach a third telescoping section. Raisio does not remedy the deficiencies of Backer et al. Raisio discloses a “loading device” that includes three non-telescoping sections (i.e., a “rear frame 2,” a “middle frame 4” and an “L-shaped piece 6”). See col. 3, lines 8-25 and FIG. 1. Thus, modification of the “aerial work platform” of Backer et al. in view of Raisio to include a third telescoping section as recited in independent claims 1 and 10 would require additional modification, and such modification is taught only by the Applicants’ own disclosure.

Thus, because Backer et al. and Raisio do not disclose, teach, or suggest all of the elements of independent claims 1 and 10, Applicants respectfully assert that claims 1-4, 6-8, 10-16, 18 and 19 are not obvious over Backer et al. in view of Raisio.

2. Independent claims 1 and 10 are patentable over Backer et al. in view of Raisio because modifying the work platform of Backer et al. to include the hook of Raisio would render the work platform of Backer et al. unsatisfactory for its intended purpose.

On page 3 of the Office Action, the Examiner states, regarding the modification of Backer et al. based on Raisio, that “it would have been obvious ... to provide ... a hook coupled to the jib.” However, “[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” MPEP § 2143.01V. Applicants respectfully assert that modification of Backer et al. in view of Raisio as proposed by the Examiner would render Backer et al. unsatisfactory for its intended purpose, and therefore, there is no motivation to make the proposed combination.

As noted above, Backer et al. discloses an “aerial work platform” having a “work platform 8” connected to the end of “upper telescopic boom assembly 7.” See col. 2, lines 15-26 and FIG. 1. As can be seen, one of the intended purposes of Backer et al. is to provide an elevated platform from which one may perform work. Raisio discloses a “loading device” including a “grasping hook 10.” See col. 3, lines 23-25 and FIG. 1. However, adding the “grasping hook 10” of Raisio to the end of “upper telescopic boom assembly 7” of Backer et al. would cause the device of Backer et al. to cease to function as a work platform.

Thus, because there is no motivation to make the proposed combination, Applicants respectfully assert that claims 1-4, 6-8, 10-16, 18 and 19 are not obvious over Backer et al. in view of Raisio.

3. Independent claims 1 and 10 are patentable over Backer et al. in view of Raisio because modifying the work platform of Backer et al. to include a third telescoping section is contrary to the teachings of Backer et al.

Backer et al. discloses a construction and arrangement for an “aerial work platform” in which “the reach of the aerial work platform is increased beyond the reach heretofore attained by conventional vehicular propelled aerial work platforms by means of a very stable mechanism” (emphasis added). Applicants assert that, based on a review of Backer et al., the addition of a third telescoping section to the “aerial work platform” of Backer et al. would increase the complexity of the boom assembly (e.g., additional actuators would likely be required, a more complicated control system to handle the additional degrees of freedom that result from a third telescoping section would likely be required, etc.) and would require additional modifications to maintain the “very stable mechanism” taught by Backer et al. In other words, one would not be able to directly add a third telescoping segment to Backer et al. without additional modification, and neither Backer et al. nor Raisio teach such modification. Further, the path set forth by Backer et al. appears to direct one to increase boom length by increasing the length of one or both of the segments of the boom, not by the addition of extra segments. It is further submitted that the desirability of increasing reach of the boom while maintaining the very stable mechanism

taught by Backer et al. teach away from modifying Backer et al. to include a third telescoping segment.

4. Conclusion

As set forth above, Backer et al. and Raisio fail to disclose, teach, or suggest all of the elements of independent claims 1 and 10, the modification of Backer et al. in view of Raisio would render Backer et al. unsatisfactory for its intended purpose, and Backer et al. teaches away from the addition of a third telescoping section. Accordingly, Applicants respectfully assert that claims 1-4, 6-8, 10-16, 18 and 19 are not obvious over Backer et al. in view of Raisio under 35 U.S.C. § 103(a).

B. Independent claim 10

In addition to the reasons set forth above, independent claim 10 is further patentable over Backer et al. in view of Raisio for at least the following reason. Claim 10 recites “a telescopic riser coupled to the support structure for translation ... relative to the support structure.” Neither Backer et al. nor Raisio disclose, teach, or suggest “a telescopic riser coupled to the support structure for translation ... relative to the support structure” as recited in claim 10. The boom assembly of Backer et al. is mounted to “turntable 3.” See col. 2, lines 18-19 and FIG. 1. The “loading device” of Raisio appears to be mounted on a vehicle. See Abstract. Accordingly, Applicants respectfully assert that claims 10-16, 18 and 19 are further patentable over Backer et al. in view of Raisio under 35 U.S.C. § 103(a).

II. Rejection of claim 5 under 35 U.S.C. §103(a) as being unpatentable over Backer et al. in view of Raisio and in further view of Capers et al.

On pages 3 and 4 of the Office Action, the Examiner rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Backer et al. in view of Raisio and in further view of Capers et al., U.S. Patent 4,678,392. For the reasons discussed below, Applicants respectfully assert that claim 5 is patentable under 35 U.S.C. § 103(a).

As discussed above, neither Backer et al. nor Raisio disclose, teach, or suggest a vehicle having a third telescoping section. Capers et al. does not remedy the deficiencies of Backer et al. and Raisio. Capers et al. discloses a “wheel lift apparatus.” See col. 2, line 34. As such, Capers et al. does not disclose a third telescoping section as recited in independent claims 1 and 10.

In addition, claim 5 recites “wherein the riser is movably coupled to the support structure for translation along the support structure.” Cappers et al. does not disclose a “riser ... movably coupled to the support structure for translation along the support structure” as recited in dependent claim 5. Cappers et al. discloses a “tow truck 11” that includes a “wheel lift apparatus.” See col. 2, lines 31-34. The components of the “wheel lift apparatus” of Cappers et al. are moveable for storage to fold substantially under the bed of the tow truck. See col. 1, lines 60-63. Thus, Cappers et al. teaches the longitudinal movement of a wheel lift apparatus to bring the wheel lift into and out of a storage position, but Cappers et al. does not provide any teaching relative to a material handling apparatus having a “riser ... movably coupled to the support structure for translation along the support structure” as recited in dependent claim 5.

Accordingly, Applicants respectfully assert that claim 5, which depends from independent claim 1, is not obvious over Backer et al. in view of Raisio and in further view of Capers et al.

III. Rejection of claims 9 and 17 under 35 U.S.C. §103(a) as being unpatentable over Backer et al. in view of Raisio and in further view of Nist et al.

On page 4 of the Office Action, the Examiner rejected claims 9 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Backer et al. in view of Raisio and further in view of Nist et al., U.S. Patent 4,941,546. For the reasons discussed below, Applicants respectfully assert that claims 9 and 17 are patentable under 35 U.S.C. § 103(a).

As discussed above, Backer et al. and Raisio fail to disclose, teach, or suggest a vehicle having a third telescoping section as recited in independent claims 1 and 10. Nist et al. does not remedy the deficiencies of Backer et al. and Raisio. Nist et al. discloses a “fire truck 10 ...

equipped with stabilizing outriggers [20-23].” See col. 2, lines 40-42. As such, Nist et al. does not disclose a “jib having a telescopic actuator,” as recited in independent claim 1, or a “telescopic jib coupled to the boom,” as recited in independent claim 10.

Accordingly, the Applicants respectfully assert that claim 9, which depends from claim 1, and claim 17, which depends from claim 10, are patentable over Backer et al. in view of Raisio in further view of Nist et al.

Conclusion

Claims 1-19 are pending in the present application. For the reasons stated above, Applicants believe that the present application is in condition for allowance. Favorable reconsideration of the application is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

It should be noted that, for the sake of clarity and simplicity, Applicants’ remarks have focused on the rejections of the independent claims and certain dependent claims set forth in the Office Action with the understanding that the dependent claims are patentable for at least the same reasons as the independent claims. Further, in addressing the Examiner’s rejections, Applicants’ remarks have set forth only some of the available arguments for patentability of the rejected claims. Applicants expressly reserve the right to argue the patentability of all claims separately and to provide new, different, and/or additional arguments for patentability not set forth herein, including, but not limited to, the failure of cited references to disclose, teach, or suggest other elements of the claims, the lack of motivation to combine cited references, or teaching away from the combination of cited references, in this or any future proceedings.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit

card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date July 16, 2009

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